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6 SUPERIOR COURT OF ARIZONA  
7 MARICOPA COUNTY

8 ARIZONA CORPORATION COMMISSION,

Case No: CV2003-005724

9 Plaintiff,

**MOTION TO AUTHORIZE RECEIVER  
TO ABANDON PROPERTY**

10 v.

(Assigned to the Honorable J. Richard Gama)

11 AMERICAN NATIONAL MORTGAGE  
12 PARTNERS, L.L.C., et al.


13 Defendants.

14 James C. Sell, the court appointed Receiver in the above-referenced matter, through  
15 counsel of record undersigned, hereby requests that this Court enter an order authorizing the  
16 Receiver to abandon property of the estate.

17 This motion is based upon the following Memorandum of Points and Authorities.

18 DATED this 1 day of June, 2004.

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20 **JABURG & WILK, P.C.**

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23 Lawrence E. Wilk  
24 Attorneys for James C. Sell

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 I. Procedural Background

3 1. On or about March 24, 2003, the Arizona Corporation Commission caused to be  
4 filed, in the Superior Court in and for the State of Arizona, a Complaint in the above-captioned  
5 matter against numerous individual defendants and entities, seeking the appointment of a  
6 Receiver over the named Defendants.

7 2. After notice and hearing, the Court, on April 2, 2003, issued its Order Appointing  
8 Receiver, appointing James C. Sell as Receiver for the approximately 100 entities named in the  
9 Receivership Complaint.

10 3. American National Mortgage Partners, LLC and ANMP 74<sup>th</sup> ST., LLC were  
11 specifically excluded from the Order due to the filing of Chapter 11 bankruptcy proceedings  
12 initiated in the United States Bankruptcy Court for the District of Arizona, on behalf of each  
13 entity, Cause Nos. 03-03803 PHX RJH and 03-03799 PHX RJH respectively.

14 4. On or about May 15, 2003, after having obtained Orders Lifting the Automatic  
15 Stay of 11 U.S.C. § 362 in the Bankruptcy Proceedings, this Court issued its First Amended  
16 Order Appointing Receiver for the sole purpose of including American National Partners, LLC  
17 and ANMP 74<sup>TH</sup> ST., LLC as additional parties subject to the Receivership Order. James C. Sell  
18 was appointed under the First Amended Order as Receiver for these two entities, and was to serve  
19 as the responsible party for these entities in the pending bankruptcy proceedings.

20 5. On or about August 22, 2003, the Court entered the Second Order Appointing  
21 Receiver, which was entered for the specific purpose of naming additional parties.

22 6. Paragraph 10 of the Receivership Order provides as follows:

23 10. . . . To this purpose, in those instances in which Receivership  
24 Assets serve as collateral to secured creditors, the Receiver  
25 may surrender such assets to secured creditors. . .

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II. Settlement Terms

1. On or about September 18, 2003, California Bank & Trust filed a Motion for Relief from the Automatic Stay in the American National Mortgage Partners Bankruptcy, Cause Number 2-03-03799 RJH, United States Bankruptcy Court for the District of Arizona.

2. California Bank & Trust claims a security interest in certain real property located at 125 S. 52<sup>nd</sup> Street, Tempe, Arizona 85282, (the "subject property") being the holder of two Notes in the principal amounts of \$600,000 and \$420,000 respectively. Each of these Notes is secured by a separate Deed of Trust on the subject property.

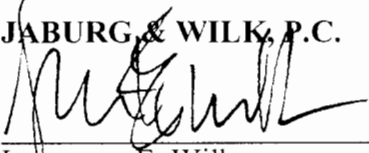
3. Creative Financial Funding, LLC is the receivership entity in title to the subject property.

4. California Bank & Trust has obtained an appraisal on the property valuing the property at \$1,200,000. Based upon the appraisal, and the amounts owed on the Notes, there is no equity in the property for the receivership estate.

5. On or about February 5, 2004, an Order was entered in the Bankruptcy Court vacating the automatic stay.

Based upon the foregoing facts, the Receiver respectfully requests this Court to issue an Order Authorizing the Receiver to Abandon its Interest in the Subject Property.

DATED this 1 day of June, 2004.

**JABURG & WILK, P.C.**  
  
\_\_\_\_\_  
Lawrence E. Wilk  
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**ORIGINAL** filed and **COPY**  
of the foregoing hand-delivered  
this 2 day of June, 2004 to:  
  
The Honorable Richard J. Gama  
MARICOPA COUNTY SUPERIOR COURT  
101 West Jefferson, ECB 611  
Phoenix, Arizona 85003-2243

1 **COPIES** of the foregoing mailed  
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